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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

James Davis  
Owner of Antenna Structure # 1214169  
Hearne, Texas

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File No. EB-09-HU-0022

Citation No. C201032540002

**CITATION**

Released: March 16, 2010

By the Resident Agent, Houston Office, South Central Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),<sup>1</sup> to James Davis for failing to notify the Commission immediately of a change in antenna structure ownership, failing to maintain the paint on an antenna structure, failing to exhibit required obstruction lighting from sunset to sunrise, and failing to notify the Federal Aviation Administration of a lighting outage in violation of Sections 17.57, 17.50, 17.51, and 17.48(a) of the Commission’s Rules (“Rules”).<sup>2</sup>
2. Antenna structure # 1214169 is 112.2 meters above ground and is required to be painted and lit. As of February 8, 2010, according to the Antenna Structure Registration (“ASR”) database, Marshall Media Group, Inc. is the registered owner of the structure.
3. On May 4 and 8, 2009, an agent of the Commission’s Houston Resident Agent Office of the Enforcement Bureau (“Houston Office”) observed that the lights on antenna structure # 1214169 were unlit and discovered that the owner of the antenna structure had not notified the FAA of the outage.<sup>3</sup> The agent also observed that the structure’s paint was severely faded and chipped and in obvious need of fresh paint. The agent determined that Clear Channel Radio purchased the antenna structure from Marshall Media Group, Inc. and then sold it to Mr. Davis for \$1 in September 2008. On July 30, 2009, Mr. Davis acknowledged ownership of the antenna structure to an agent of the Houston Office.
4. Section 17.57 of the Rules states that the “owner [of an antenna structure] must also immediately notify the Commission using FCC Form 854 upon any change in ... structure ownership

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<sup>1</sup> 47 U.S.C. § 503(b)(5). Section 503(b)(5) of the Act provides that a Citation is not required in the case of violations of Section 303(q) of the Act, 47 U.S.C. § 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by Section 303(q) from the Commission or the permittee or licensee who uses that tower. In this case, however, we are providing a Citation to Mr. Davis, because such notice was not previously provided to Mr. Davis.

<sup>2</sup> 47 C.F.R. §§ 17.51, 17.50, 17.48(a), 17.57. Although the antenna structure was no longer being used for the transmission of radio energy, at the time of the inspection, Mr. Davis, as the owner of the structure, was required to maintain the painting and lighting requirements assigned to the antenna structure until the structure is dismantled. *See* 47 U.S.C. § 303(q).

<sup>3</sup> On May 4, 2008, the agent notified the FAA of the outage, and the FAA issued a Notice to Airmen (“NOTAM”) at that time.

information.”

5. Section 17.50 of the Rules states that “[a]ntenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.”
6. Section 17.51(a) of the Rules states “[a]ll red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified.” Section 17.48(a) of the Rules states “[t]he owner of any antenna structure which is registered with the Commission and has been assigned lighting specification ... shall report immediately to the nearest Flight Service Station or office of the FAA any observed or otherwise known extinguishment ... of any top steady burning light or any flashing obstruction light ... not corrected within 30 minutes.”
7. Accordingly, it appears that Mr. Davis has violated Section 17.57 of the Rules by failing to update immediately the ownership information for antenna structure # 1214169 in the ASR database. In addition, it appears that Mr. Davis has violated Section 17.50 of the Rules by failing to repaint the antenna structure to maintain good visibility. Moreover, it appears that Mr. Davis has violated Sections 17.48(a) and 17.51 of the Rules by failing to notify the FAA of a lighting outage on the antenna structure not correctable within 30 minutes and failing to exhibit the required lighting on the antenna structure from sunrise to sunset.
8. We caution you that failure to update the ownership information in the ASR database, failure to repaint the antenna structure, and failure to repair the light outage would constitute further violations of the Rules, which could subject you to substantial monetary forfeitures,<sup>4</sup> seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.<sup>5</sup>
9. If you choose to do so, you may respond to this citation within 14 days from the date of this letter either through (1) a personal interview at the Commission’s Field Office nearest to your residence, or (2) a written statement. Any written statements should specify what actions have been taken to correct the violation outlined above. The response must be complete in itself and signed by you. All replies and documentation sent in response to this Citation should be marked with the File No EB-09-HU-0022 and mailed to the following address:

Federal Communications Commission  
9597 Jones Road, #362  
Houston, Texas 77065
10. If you choose to request a personal interview, the closest FCC Office is noted above. You should contact this office by telephone, (XXX) XXXX-XXXXo schedule this interview, which must take place within 14 days of this Citation.
11. The Privacy Act of 1974<sup>6</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>7</sup>

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<sup>4</sup>47 C.F.R. § 1.80(b)(3).

<sup>5</sup>47 U.S.C. §§ 401, 501, 503, 510.

<sup>6</sup>P.L. 93-579, 5 U.S.C. § 552a(e)(3).

<sup>7</sup>18 U.S.C. § 1001 *et seq.*

**Federal Communications Commission**

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12. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to James Davis at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Stephen P. Lee  
Resident Agent  
Houston Office  
South Central Region  
Enforcement Bureau